Reg. No. KL/TV/12

© Government of Kerala 1973

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Thursday, 17th July 1975 / 26th Ashadha 1897 [No. 375

GOVERNMENT OF KERALA

Public (Political 'A') Department

NOTIFICATION

No. 57531/Pol.A2/75/PD. *Dated, Trivandrum, 17th July 1975.*

Shri Vakkom Purushothaman, Minister for Agriculture and Labour will be away from the State from the Afternoon of 17th July, 1975. The Governor has been pleased to assign under Rule 5 of the Rules of Business, for the duration of his absence, the subjects held by the Minister to the following Ministers:—

Shri K. Karunakaran, Minister for Home:

Labour, Employment and Training,
Factories and Boilers,
Law and Legislation.

Shri Paul P. Mani, Minister for Food and Civil Supplies:

Agriculture, Animal Husbandry, and Dairy Development.

K. P. K. Menon,
Chief Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

33/2222/MC.

Reg. No. KL/TV/12.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Thursday, 17th July 1975 / 26th Ashadha 1897 [No. 376

GOVERNMENT OF KERALA

Labour (B) Department

NOTIFICATION

G. O. MS. No. 53/75/LBR. *Dated, Trivandrum 16th July 1975.*

S.R.O. No. 594/75.—In exercise of the powers conferred by sub-section (1) of section 5 of the Toddy Workers' Welfare Fund Act, 1969 (22 of 1969), the Government of Kerala hereby make the following amendments to the Toddy Workers' Welfare Fund Scheme, 1969, issued under Notification No. 26620/H1/69/LSWD. dated the 29th December, 1969, published in the Kerala Gazette Extraordinary No. 305, dated the 29th December, 1969, as subsequently amended, namely:—

AMENDMENTS

In the said Scheme:—

1. in paragraph 2, after clause (c) of sub paragraph (1), the following clause shall be inserted, namely:—

"(CC) "completed year of service" means continuous service for one pear;"

7. For paragraph 45 and the proviso and the Explanation thereto, the following shall be substituted, namely :—

"45. *Gratuity when payable*—

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service of not less than five years,—

(a) on his superannuation, or

(b) on his retirement, resignation, retrenchment, discharge or dismissal from service, or

(c) on his death or total disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or total disablement:

Provided further that only the period during which an employee was a member of the fund shall be taken into account for determining the number of completed years for the purpose of paragraph 44:

Provided also that in cases where welfare funds established by custom or agreement before the date of commencement of the Act, have been transferred to the credit of the fund under section [illegible] of the Act and where the rate of contribution in respect of gratuity had not been less than [illegible]% of the wages of the member the period of membership of such funds for which contributions have been credited to the fund shall be taken into account for determining the number of completed years for the purpose of paragraph 44.

(2) Notwithstanding anything contained in sub-paragraph (1)-(c) gratuity shall be payable to an employee on his total disablement due to accident or disease only if he produces a certificate from a Medical Officer not below the rank of an Assistant Surgeon that the employee has been completely incapacitated for service.

(3) In case of discharge or dismissal from service for any act, wilful omission or negligence causing any damage or loss to or destruction of property belonging to the employer, an amount equal to the damage or loss shall be recovered and made over to the Employer by the Chief Welfare Fund Inspector after making such enquiry as he deems fit, provided that such recovery shall be made only in case where the employer gives notice in writing to the Chief Welfare Fund Inspector specifying the amount of damage, or loss within thirty days of such termination of service.

(4) In the case of death of an employee, gratuity shall be payable to his nominee under paragraph 4[illegible] or in the absence of a nominee to the members of his family as specified in paragraph [illegible]."

8. In paragraph 49, for the words "in the account of the Fund", the words "in the Provident Fund Account" shall be substituted.

9. In paragraph 52, in sub paragraphs (1) and (5), for the words "in the Fund", the words "in the Provident Fund Account" shall be substituted;

5. in sub paragraph (1) of paragraph 53 for the words "in the amount standing to his credit in the fund", the words "standing to his credit in the Provident Fund Account" shall be substituted;

6. in sub-paragraph (1) of paragrapn 56, for the words "in the Account standing to his credit in the fund", the words "standing to his credit in the Provident Fund Account" shall be substituted;

7. in paragraph 57, for the words "his account in the fund" the words "his Provident Fund Account" shall be substituted;

8. in paragraph 58, for the words "his account in the fund", the words "his provident fund account" shall be substituted;

9. in sub paragraph (1) of paragraph 59, for the words "his account in the fund" the words "his Provident Fund Account" shall be substituted;

10. after paragraph 59, the following shall be inserted, namely:—

"Chapter IX A-settlement of Provident Fund Account".

11. (a) in paragraph 61, (a) in clause (i), for the figures "33", the figures "34" shall be substituted;

(b) for the words "in the fund" wherever they occur, the words "in the Provident Fund Account" shall be substituted;

12. after paragraph 61, the following shall be inserted, namely:—

"Chapter XI-B General".

13. in paragraph 69, for sub-paragraph (1), the following sub-paragraph shall be substituted, namely:—

"(1) The amount received as contribution to the Fund under sub-section (1) of section 4 of the Act, 1969, shall be credited to an account to be called the "Provident Fund Account".

(1A) The amount received as contribution to the Fund under sub-section (2) of section 4 of the Act, 1969, shall be credited to an account to be called the "Gratuity Fund Account".

By order of the Governor,
U. MAHABALA RAO,
Secretary to Government.

Explanatory Note

(This does not form part of the amendment but is intended to indicate the general purport).

The Hon'ble High Court in its common judgment relating to O. P. Nos. 2845/70, 3862/70, 4281/70, 4849/70 etc., had struck down certain paragraphs of the Toddy Workers' Welfare Fund Scheme, 1969, as unconstitutional. The amendments are mostly intended to comply with the directions of the Court. Certain amendments are consequential amendments based on the amendment to be brought about, based on the judgment.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975

Government of Kerala
1975

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Thursday, 17th July 1975 / 26th Ashadha 1897 [No. 377

GOVERNMENT OF KERALA

Local Administration and Social Welfare (G) Department

NOTIFICATION

No. G. O. (MS) 153|75|LA&SWD.

Dated, Trivandrum, 8th July 1975.

S. R. O. No. 595|75.—In exercise of the powers conferred by sub-section (1) of section 15 of the Kerala State Rural Development Board Act, 1971 (15 of 1971) the Government of Kerala hereby make the following rules, namely:—

RULES

1. **Short title and commencement.**—(1) These rules may be called the Kerala State Rural Development Board (Audit) Rules, 1975.

(2) They shall come into force at once.

2. **Definition.**—In these rules, unless the context otherwise requires,—

(a) 'Act' means the Kerala State Rural Development Board Act, 1971 (15 of 1971);

(b) 'Auditor' means the Examiner of Local Fund Accounts;

(c) 'Board' means the Kerala State Rural Development Board established under the Act;

3. **Examiner of Local Fund Accounts to be auditor of the Board.**—The Examiner of Local Fund Accounts shall be the auditor of the accounts of the Board.

4. **Audit of Accounts.**—(a) The Auditor referred to in rule 3 shall maintain and keep a continuous audit of the accounts of the Board.

(b) The Chairman of the Board shall render and make available all accounts to the Auditors as and when required by him.

(c) The Chairman shall make ready the annual accounts and registers and produce them before the auditors for scrutiny not later than the first day of July in the year succeeding that to which such accounts and registers relate.

5. **Powers of the auditor.**—The auditor may—

(a) by summons in writing require the production of any document, the perusal or examination of which he believes is necessary for the elucidation of the accounts;

(b) by summons in writing require any person having the custody or control of any such document or accountable for it to appear in person before him; and

(c) require any person so appearing to make and sign a declaration with respect to such documents or to answer any question or to prepare and furnish any statement relating thereto;

6. **Reports and information to be furnished by Auditor to the Board.**—The auditor shall—

(a) report to the Board and to the Government any material impropriety or irregularity which he may observe in the expenditure or in the recovery of moneys due to the Board or in the Board accounts;

(b) furnish to the Board such information as it may from time to time require concerning the progress of his audit;

(c) report to the Board any loss or waste of money or other loss to the property owned by or vested in the Board caused by neglect or misconduct, with the names of persons directly or indirectly responsible for such loss or waste; and

(d) furnish to the Board a final statement of the audit and a duplicate copy thereof to the Government within four months after the date of receipt of the annual financial statement or within such other period as the Government may notify.

7. **Board to rectify the defects etc., pointed out in audit.**—The Board shall forthwith remedy the defects or irregularities that may be pointed out by the auditor and report the same to the Government within two months of the receipt of the Auditor's report referred to in sub-rules (a) and (c) to rule 6. The Board shall take steps forthwith to prevent recurrence of the irregularities and defects, pointed out in audit report and shall submit its report to the Government within six months from the date of receipt of the final statement of audit. A copy of the proceedings of the Board on the statement of audit and the action taken thereon shall be forwarded to the auditor and to the Government.

8. **Review of the audit report by the Government.**—Replies to Audit Report shall be reviewed by the Government and directions issued to the Board wherever necessary within 6 months from the date of receipt of the replies from the Board; and the Board shall comply with such instructions immediately. A copy of the review by the Government may be forwarded to the Auditor also.

9. **Power of auditor regarding disallowance and surcharge.**—(1) The auditor may disallow every item contrary to law and surcharge the same on the person making or authorising the making of the illegal payment; and may charge against any person responsible therefore the amount of any deficiency or loss incurred by the negligence or misconduct of the persons or of any sum which ought to have been but is not brought into account by that person and shall, in every such case, certify the amount due from such person:

Provided that no surcharge or charge shall be made without giving the person affected a reasonable opportunity of being heard.

Explanation: It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss to contend that notwithstanding his negligence or misconduct the deficiency or loss would not have occurred but for the negligence or misconduct of some other person.

(2) The auditor shall state in writing the reasons for his decision in respect of every disallowance, surcharge or charge and furnish by registered post a copy thereof to the person against whom it is made.

(3) If the person to whom a copy of the auditor's decision is so furnished refuses to receive it, he shall nevertheless be deemed to

have been duly furnished with a copy of such decision within the meaning of sub-rule (2). The period of fourteen days fixed in sub-rule (4) and sub-rule (5) shall be calculated from the date of such refusal.

(4) Any person aggrieved by the surcharge or charge made may within fourteen days, after he has received or been served with the decision of the auditor may appeal to the Government who shall pass such orders as they think fit.

(5) Every sum certified to be due from any person by the auditor under these rules shall be paid by such person to the chairman of the Board within fourteen days after the intimation to him of the decision of the auditor, unless within that time such person has appealed to the court or to the Government against the decision and such sum if not so paid, or such sum as the Government shall declare to be due, shall be recoverable on an application made by the Chairman of the Board to the court in the same way as an amount decreed by the Court. In case of recovery to be made from any officer of Government, the Chairman or an employee of the Board, steps shall be taken by the Board to realise the amount departmentally.

10. **Cost of Audit.**—The Board shall bear the cost of audit as fixed by Government on the report of the Auditor.

By order of the Governor,

N. GOPALAKRISHNAN NAIR,

Special Secretary to Government.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.